

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



Attorney General

**MEMORANDUM**

**TO: Adrienne Todman**  
**Interim Executive Director**  
**District of Columbia Housing Authority**

**FROM: Peter J. Nickles**  
**Attorney General**

**DATE: October 26, 2009**

**SUBJECT: Council Approval of DCHA Contracts**

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This memorandum follows my October 23, 2009 letter to you and Mr. Froelicher, in which I opined that proposed DCHA contracts for goods and services worth more than \$1 million of local funds during a 12-month period, as well as proposed multi-year contracts, are subject to Council approval in accordance with the requirements of section 451(b) and (c) of the Home Rule Act (D.C. Official Code § 1-204.51(b) and (c)).

This memorandum will also serve to clarify that my letter opinion was not intended as a pronouncement that any such past or current DCHA contracts that were awarded without Council approval are unlawful. Indeed, such contracts should be regarded as legal and binding.

Generally, retroactivity is not favored in the law. *See, e.g., Bowen v. Georgetown Univ. Hospital*, 488 U.S. 204, 208 (1988). This is especially true in cases where an individual forfeits rights or unduly suffers adverse consequences based on reliance on the government's previous practices or policies. Here, DCHA has had a long-standing practice of awarding contracts over \$1 million during a 12-month period, or multi-year contracts, without Council approval. To regard any such past or current DCHA contracts as unlawful would be to run an unacceptable risk of depriving the Authority's contracting partners of legitimate expectations and of upsetting settled transactions. *See E. Enters v. Apfel*, 524 U.S. 498, 533 (1998).

Accordingly, I confirm that my October 23 letter opinion is to operate prospectively only.

PJN/jjg

Copy to: Hans Froelicher, Esq., General Counsel, DCHA